

ORDINANCE 2010-04

AN ORDINANCE OF THE ALBANY CITY COUNCIL ENACTING ALBANY MUNICIPAL CODE SECTION 8-7, ENTITLED ALCOHOLIC BEVERAGES

WHEREAS, The Social and Economic Justice Committee has recommended that the City Council adopt more comprehensive regulations restricting the use of alcoholic beverages in public places;

WHEREAS, the City Council has reviewed the recommendations of the Social and Economic Justice Committee and has directed staff to prepare an ordinance for Council's consideration; and

WHEREAS, restricting the use of alcoholic beverages in public places is in the best health, safety, and welfare interests of the Albany Community.

THEREFORE, THE ALBANY CITY COUNCIL HEREBY ORDAINS AS FOLLOWS:

SECTION 1. Section 8-7 is hereby enacted and shall read as follows:

Chapter 8-7 ALCOHOLIC BEVERAGES

Sections:

8-7.1 Definitions.

8-7.2 Possession and consumption of alcohol prohibited in certain places.

8-7.3 Posting of premises required by business owner.

8-7.4 Exemptions.

8-7-5. Closure of a public area to alcohol consumption.

8-7.1 Definitions.

For the purposes of this Chapter, the following words and phrases shall have the meanings respectively ascribed to them in this section unless the context specifically indicates otherwise:

- (a) "Alcoholic beverage" means and includes alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, wine, or beer, and which is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances.
- (b) "Consumption" means and includes drinking, swallowing, sipping, snorting and imbibing.
- (c) "Open bottle, open container, can or other receptacle" means any receptacle containing an alcoholic beverage which has been opened, or a seal broken, or the contents of which have been partially or substantially removed.

(d) "Posted commercial lots" means those commercial lots within the City of Albany upon which clearly visible notices indicate that the consumption of alcoholic beverages thereon is prohibited.

(e) "Posted premises" means those premises which are subject to licensing under any retail package off-sale alcoholic beverage license; the parking lot immediately adjacent to the licensed premises; and any public sidewalk immediately adjacent to the licensed premises provided that the premises are posted with clearly visible notices which indicate to the patrons of the licensed premises and parking lot, and to persons on the public sidewalk, that the provisions of this Section are applicable.

8-7.2 Possession and consumption of alcohol prohibited in certain places.

Except as otherwise provided in Section 8-7.4, it shall be unlawful and a misdemeanor for any person to consume, drink, exhibit or possess an open container, cup, or receptacle of any alcoholic or intoxicating beverage in any quantity in the following public places, places open to the public and places open to public view:

- (1) On any public street, sidewalk, alley, way, parkway, public parking lot, public park or recreation area within the City;
- (2) On the posted premises of, including the posted parking lot immediately adjacent to, any retail package off-sale alcoholic beverage licensee;
- (3) On other posted private property open to the public, including but not limited to parking lots and shopping centers, where the sale of alcoholic beverages has not been licensed; and
- (4) On a private drive, stairway, doorway, or other private property open to public view without the express permission of the owner, his or her agent, or the person in lawful possession thereof.

8-7.3 Posting of premises required by business owner.

Each owner/operator of a retail package off-sale alcoholic beverage business premises within the City and each owner of a parking lot immediately adjacent to such business premises shall respectively post the business premises, the parking lot or the sidewalk with a sign that sets forth such prohibition in substantially the following form: "Possession of an open container or consumption of alcohol within this parking lot is a violation of Section 8-7.2 of the Albany Municipal Code (AMC) .

8-7-4 Exemptions.

The provisions of Section 8-7.2 shall not apply to the consumption, drinking, exhibition, or possession of an open container of alcoholic or intoxicating beverages under one or more of the following conditions:

- (1) Where the sale or consumption of alcoholic beverages has been approved or licensed by the state Department of Alcoholic Beverage Control and said use has been approved by the City of Albany for any necessary permits;

(2) It is a use, event, or activity that is sponsored by the City, and the consumption, drinking, exhibition, or possession of an open container of alcoholic or intoxicating beverages has been authorized in writing by the Chief of Police or his/her designee.

(3) It is a use, event, or activity that is open to the public and permission for consumption, drinking, exhibition, or possession of an open container of alcoholic or intoxicating beverages has been approved in advance in writing by the Chief of Police or his/her designee.

(4) Where, at least 24 hours in advance, a written permit to possess alcoholic or intoxicating beverages in a designated area has been obtained from the Chief of Police or his/her designee and the fee established by the resolution establishing fees and charges for various municipal services of the City for said permit has been paid.

8-7-5. Closure of public area to alcohol consumption

Notwithstanding any of the above provisions, the Chief of Police or his/her designee may close all or a portion of a public use area or public facility within a park area to the consumption of alcoholic beverages and/or to the possession of a bottle, can or other receptacle containing an alcoholic beverage that is open, or that has been opened, or whose seal is broken or the contents of which have been partially removed. Provided however, that such a closure may only be implemented following a determination made by the Chief of Police or his/her designee that incidents of aberrant behavior related to the consumption of alcoholic beverages are of such magnitude that the diligent application of the authorities in this section, over a reasonable time period, does not alleviate the problem.

Section 2. Severability.

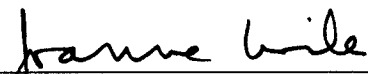
If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of the ordinance, and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

Section 3. Posting/Publication.

This ordinance shall be published in a newspaper of general circulation in the City of Albany, which said newspaper is designated for that purpose, or it shall be posted in three locations.

Section 4. Effective Date

This ordinance shall become effective 30 days after its passage and adoption by the City Council.



Janne Wile
Mayor



City of Albany

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STATE OF CALIFORNIA)
COUNTY OF ALAMEDA) ss
CITY OF ALBANY)

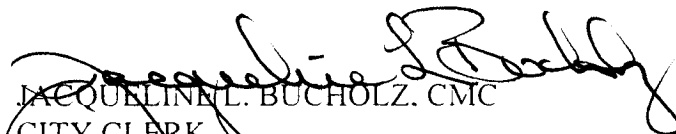
I, **JACQUELINE L. BUCHOLZ**, City Clerk of the City of Albany, California, do hereby certify that the whole number of members of the City Council of said City of Albany is five and that the foregoing Ordinance, being Ordinance No. 2010-04 was passed and adopted by the said City Council, approved and signed by the Mayor of said City, and attested by the City Clerk of said City, all at a regular meeting of the Said Council on the 6th day of July 2010 A.D., and that the same was so passed and adopted by the following votes:

AYES: Council Members Atkinson, Javandel, Lieber, Thomsen & Mayor Wile

NOES: None

ABSENT: None

In witness whereof, I have hereunto set my hand and affixed the official seal of the City of Albany, this 7th day of July, 2010.


JACQUELINE L. BUCHOLZ, CMC
CITY CLERK

The City of Albany is dedicated to maintaining its small town ambience, responding to the needs of the community, and providing a safe, healthy environment now and in the future.



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